

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY COMPANY
as Administrator for RELIANCE INSURANCE
COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – STATE OF NEW
YORK, TDX CONSTRUCTION CORP., and KOHN
PEDERSEN FOX ASSOCIATES, P.C.,

Defendants.

AND THIRD AND FOURTH PARTY ACTIONS.

Case No. 07 Civ. 6915 (DLC)

**ANSWER OF DASNY AND
TDX TO CROSS-CLAIM
OF THIRD-PARTY
DEFENDANT CERMAK
PETERKA PETERSEN, INC.**

Defendants/Third-Party Plaintiffs Dormitory Authority of the State of New York ("DASNY") and TDX Construction Corp. ("TDX"), by their attorneys, Holland & Knight LLP, answer the cross-claim of Third-Party Defendant Cermak Peterka Petersen, Inc. ("CPP"), dated May 7, 2008 ("CPP's Cross-Claim"), as follows:

1. DASNY and TDX deny each and every allegation contained in paragraph 92 of CPP's Cross-Claim with respect to the alleged liability of DASNY and TDX, and state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations therein regarding the alleged liability of all other parties against whom the cross-claim/counterclaim is asserted.

2. The allegations contained in paragraph 93 of CPP's Cross-Claim states a legal conclusion to which no response is required. To the extent a response is required, DASNY and TDX deny each and every allegation of paragraph 93 with respect to the alleged liability of DASNY and TDX, and state that they are without knowledge or information sufficient to form a belief as to the truth of the allegations therein regarding the alleged liability of all other parties against whom the cross-claim/counterclaim is asserted.

FIRST AFFIRMATIVE DEFENSE

3. CPP's Cross-Claim fails to state a cause of action against DASNY upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

4. CPP's Cross-Claim fails to state a cause of action against TDX upon which relief may be granted.

THIRD AFFIRMATIVE DEFENSE

5. CPP is not entitled to common law indemnity, because the third-party complaint alleges that CPP itself was negligent and/or breached its contract(s) with the third-party plaintiff.

FOURTH AFFIRMATIVE DEFENSE

6. Any damages that have been or may be sustained by CPP were caused in whole or in part by CPP's own culpable conduct, as a result of which CPP's claims are therefore barred or diminished in the proportion that such conduct caused said damages.

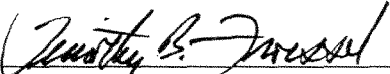
FIFTH AFFIRMATIVE DEFENSE

7. CPP's Cross-Claim may be barred, in whole or in part, by additional defenses that cannot be articulated due to the generality of the Cross-Claim, the fact that discovery is not complete, or other presently undeveloped information. Accordingly, DASNY and TDX reserve their right to amend and/or supplement the foregoing defenses and to raise additional defenses as this action progresses, to the fullest extent permitted by the Federal Rules of Civil Procedure.

WHEREFORE, DASNY and TDX demand judgment dismissing CPP's Cross-Claim in its entirety as against them, together with the costs and disbursements of this action, attorneys' fees, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
May 28, 2008

HOLLAND & KNIGHT LLP

By: 
Timothy B. Froessel
195 Broadway
New York, New York 10007
(212) 513-3200

Stephen B. Shapiro
HOLLAND & KNIGHT LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, D.C. 20006
(202) 955-3000

*Attorneys for Defendants/Third-Party Plaintiffs
Dormitory Authority of the State of New York
and TDX Construction Corp.*

To: All Counsel of Record

5248009 v1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TRAVELERS CASUALTY AND SURETY
COMPANY as Administrator for RELIANCE
INSURANCE COMPANY,

Plaintiff,

- against -

DORMITORY AUTHORITY – THE STATE OF NEW
YORK, TDX CONSTRUCTION CORP., and KOHN
PEDERSEN FOX ASSOCIATES, P.C.,

Defendants.

DORMITORY AUTHORITY OF THE STATE OF
NEW YORK and TDX CONSTRUCTION CORP.,

Third-Party Plaintiffs,

- against -

TRATAROS CONSTRUCTION, INC.,

Third-Party Defendant.

Third and Fourth Party Actions.

Case No. 07 Civ. 6915 (DLC)
ECF CASE

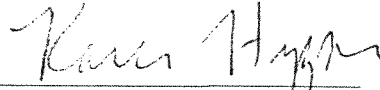
AFFIDAVIT OF SERVICE

KAREN L. HIPPERNER hereby declares the following to be true under penalty of perjury:

On May 28, 2008, I caused the foregoing Answer of DASNY and TDX Construction Corp. to Cross-Claim of Third-Party Defendant Cermak Peterka Petersen, Inc. to be served upon all parties listed in the attached service list, at the addresses designated for service by depositing same, enclosed in a properly addressed wrapper, first-class postage, in an official depository under the exclusive care of the United States Postal Service within the State of New York.


On May 28, 2008, I caused the foregoing Answer of DASNY and TDX Construction Corp. to Cross-Claim of Third-Party Defendant Cermak Peterka Petersen, Inc. to be served via electronic filing upon all parties currently appearing in this litigation.

Dated: New York, New York
May 28, 2008



Karen L. Hippner

Sworn to before me this date
May 28, 2008



Notary Public

PETER FALISI
Notary Public, State of New York
No. 01FA6039613
Qualified in New York County
Commission Expires April 3, 2 010

4950324_v1

SERVICE LIST

David C. Dreifuss, Esq.
DREIFUSS, BONACCI & PARKER, LLP
26 Columbia Turnpike
North Entrance
Florham Park, New Jersey. 07932

*Counsel for Travelers Casualty & Surety Co.
& Trataros Construction, Inc.*

David Abramovitz, Esq.
ZETLIN & DeCHIARA LLP
801 Second Avenue
New York, New York 10017

Counsel for Kohn Pedersen Fox Assocs.

Jeremy Platek, Esq.
O'CONNOR, REDD, GOLLIHUE &
SKLARIN, LLP
200 Mamaroneck Avenue
White Plains, New York 10601

Counsel for Bartec Industries, Inc.

Martin P. Lavelle
Green & Lavelle
110 William Street, 18th Floor
New York, New York 10038

*Counsel for National Union Fire
Ins. Co.*

Diana E. Goldberg
Mound Cotton Wollan & Greengrass
One Battery Park Plaza
New York, N.Y. 10004

Counsel for Allied World Assurance Co.

Joseph DeDonato
Morgan Melhuish Abrutyn
651 West. Mt. Pleasant Ave.
Suite 200
Livingston, New Jersey 07039

Counsel for Ohio Casualty Ins. Co.

Suzin L. Raso, Esq.
Goldberg Segalla LLP
170 Hamilton Avenue
White Plains, N.Y. 10601

Counsel for Dayton Superior Chem. Corp.

Robert M. Wasko
Torre, Lentz, Gamell, Gary
& Rittmaster, LLP
226 West 26th Street – 8th Fl.
New York, N.Y. 10001

Counsel for Carolina Casualty Ins. Co.

John P. DeFilippis, Esq.
Carroll, McNulty & Kull, LLC
570 Lexington Avenue
10th Floor
New York, New York 10022

Counsel for United States Fire Ins. Co.

Michael S. Miller
Tompkins, McGuire, Wachenfeld & Barry
140 Broadway – 51st Floor
New York, N.Y. 10005

Counsel for Lumberman's Mutual Cas. Co.

Robert R. Brooks-Rigolosi
Segal McCambridge Singer & Mahoney, Ltd.
830 Third Avenue, Suite 400
New York, N.Y. 10022

*Counsel for Specialty Construction Brands,
Inc. t/a TEC*

S. Dwight Stephens
Melito & Adolfsen
233 Broadway, 28th Floor
New York, N.Y. 10279

Counsel for Zurich American Ins. Co.

Donald George Sweetman
Gennet, Kallmann, Antin & Robinson, P.C.
6 Campus Drive
Parsippany, NJ 07054

Counsel for Great American Ins. Co.

Stephen P. Schreckinger
Gogick, Byrne & O'Neill, LLP
11 Broadway, Suite 1560
New York, N.Y. 10004

*Counsel for Weidlinger Assoc.,
Castro-Blanco Piscioneri
& Arquitectonica*

George J. Manos
Bollinger, Ruberry & Garvey
500 West Madison Street
Suite 2300
Chicago, IL 60661

Counsel for Kemper Casualty

Lance J. Kalik
Riker Danzig Scherer Hyland & Perretti LLP
Headquarters Plaza
Morristown, New Jersey 07962

Counsel for Harleysville Ins. Co. of N.J.

Richard P. Dyer
Thelen Reid & Brown LLP
875 Third Avenue
New York, N.Y. 10022

Counsel for LBL Skysystems, Inc.

Terrence O'Connor, Esq.
O'Connor & Golder
24 North Washington
Port Washington, N.Y. 11050

Counsel for Jordan Panel Systems Corp.

Martin A. Schwartzberg
L'Abbate, Balkan, Colavita & Contini
1001 Franklin Avenue
Garden City, N.Y. 11530

Counsel for Cosentini Associates, Inc.

Terrence O'Connor, Esq.
Kalb & Rosenfeld, P.C.
1470 Bruckner Blvd.
Bronx, N.Y. 10473

Of Counsel for Jordan Panel Systems Corp.

Vincent J. Zichello
Zichello & McIntyre
420 Lexington Avenue
Suite 2800
New York, New York 10170

Counsel for Carolina Casualty

Joel M. Simon
Smith Mazure Director Wilkens
Young & Yagerman, P.C.
111 John Street, 20th Floor
New York, New York 10038

Counsel for North American Specialty Ins.

4987296_v1